

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KIMBERLY TANNER,

Plaintiff,

v.

5:15-CV-577  
(TJM/ATB)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

This matter was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. In a Report and Recommendation dated May 11, 2016, Magistrate Judge Baxter recommends that the decision of the Commissioner be reversed and the matter remanded for further proceedings. No objections to the Report and Recommendation have been lodged and the time for filing objections has expired.

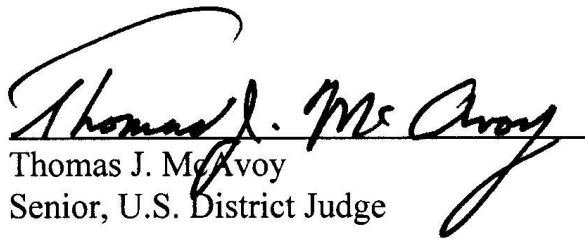
**CONCLUSION**

After examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice. Therefore, the Court **ADOPTS** the Report and Recommendation [dkt. # 24] for the reasons stated therein. The decision of the Commissioner is **REVERSED**, and this case is **REMANDED**,

pursuant to sentence four of 42 U.S.C. § 405(g), for a proper determination of plaintiff's residual functional capacity to perform past work and other further proceedings, consistent with Magistrate Judge Baxter's Report and Recommendation.

**IT IS SO ORDERED.**

Dated: June 7, 2016

  
Thomas J. McAvoy  
Senior, U.S. District Judge